

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

JAMES Q. SUDBERRY,

Plaintiff

v.

C-1-13-622

WARDEN MORGAN, *et al.*,

Defendants

ORDER

This matter is before the Court upon the Report and Recommendation of the United States Magistrate Judge (doc. no. 2) and plaintiff's objections thereto (doc. no. 4). The Magistrate Judge concluded that 1) plaintiff's previous dismissal prevent him from filing this action *in forma pauperis* and 2) plaintiff has failed to allege particular facts showing any immediate or impending serious physical injury. The Magistrate Judge therefore recommended that plaintiff's Motion for Leave to Proceed *In Forma Pauperis* (doc. no. 1) be denied; plaintiff should be ordered to pay the full filing fee of \$350.00 within thirty (30) days and failure to do so will result in the dismissal of this action.

Plaintiff objects to the Judge's Report and Recommendation on the grounds that his findings are contrary to law.

Upon a *de novo* review of the record, especially in light of plaintiff's objections, the Court finds that plaintiff's objections have either been adequately addressed and properly disposed of by the Judge or present no particularized arguments that warrant specific responses by this Court. The Court finds that the Magistrate Judge has accurately set forth the controlling principles of law and properly applied them to the particular facts of this case and agrees with the Magistrate Judge.

Accordingly, the Court hereby ADOPTS AND INCORPORATES BY REFERENCE HEREIN the Report and Recommendation of the United States Magistrate Judge (doc. no. 2). Plaintiff's Motion for Leave to Proceed *In Forma Pauperis* (doc. no. 1) is DENIED. Plaintiff is ORDERED to pay the full filing fee of \$350.00 within thirty (30) days of the date of this Order. Failure to do so will result in the dismissal of this action.

This Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this Order would not be taken in good faith. *See, McGore v. Wrigglesworth*, 114 F.3d 601 (6th Cir. 1997).

IT IS SO ORDERED.

s/Herman J. Weber
Herman J. Weber, Senior Judge
United States District Court